

105TH CONGRESS  
2D SESSION

# H. R. 4363

To provide for the restructuring of the Immigration and Naturalization Service, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1998

Mr. WATT of North Carolina (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide for the restructuring of the Immigration and Naturalization Service, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Immigration and Nat-  
5       uralization Service Restructuring Act of 1998”.

6       **SEC. 2. PURPOSES.**

7       The purposes of this Act are to—

8               (1) advance the effective enforcement of our im-  
9       migration laws at our borders and in the interior,

1 and the efficient provision of immigration and citi-  
2 zenship services;

3 (2) untangle INS' overlapping and frequently  
4 confusing organizational structure by replacing it  
5 with two clear operational chains of command—one  
6 for enforcement and one for providing services—  
7 from the highest level of the agency to the lowest;

8 (3) create two parallel operational divisions  
9 which can each focus on its unique management,  
10 knowledge, skills, and abilities, while also retaining  
11 the essential functions for guiding and coordinating  
12 these operations;

13 (4) improve customer-oriented immigrant serv-  
14 ices by:

15 (A) creating new local service offices;

16 (B) establishing new, distinct lines of ac-  
17 countability of authority for services;

18 (C) setting clear standards for customer  
19 service; and

20 (D) using technology to improve efficiency  
21 and customer service;

22 (5) strengthen enforcement operations by:

23 (A) establishing a single, coordinated en-  
24 forcement mission;

1 (B) integrating enforcement, and strength-  
2 ening accountability;

3 (C) organizing enforcement areas by func-  
4 tion, including Border Patrol, inspections, in-  
5 vestigations and removals, detention, and en-  
6 forcement support; and

7 (6) provide for efficient integration of service  
8 and enforcement by:

9 (A) creating an administrative and tech-  
10 nical backbone of support for enforcement and  
11 service; and

12 (B) developing and managing essential im-  
13 migration records, computer systems, training,  
14 and shared administrative functions.

15 **SEC. 3. DEFINITIONS.**

16 For purposes of this Act, the following definitions  
17 shall apply:

18 (1) The term “INA” refers to the Immigration  
19 and Nationality Act of 1952, as amended up to the  
20 effective date of this Act.

21 (2) The term “INS” means the Immigration  
22 and Naturalization Service.

23 **SEC. 4. EFFECTIVE DATE.**

24 Except as otherwise provided by this Act, this Act  
25 shall take effect on October 1, 2000.

# **TITLE I—AGENCY ORGANIZATION**

## **3 SEC. 101. AGENCY ORGANIZATION.**

4       The Immigration and Naturalization Service [the  
5 Service] shall be responsible for administering the immi-  
6 gration laws of the United States. The Service will be or-  
7 ganized in a way that ensures the effective implementation  
8 of enforcement strategies at the border, the interior of the  
9 country, and overseas, and the timely and efficient provi-  
10 sion of immigrant services and benefits with complete in-  
11 tegrity. The Service will be structured along programmatic  
12 lines and composed of an: (1) Office of Immigrant Serv-  
13 ices, (2) Office of Enforcement Operations, and (3) Office  
14 of Shared Services.

15       (a) HEADQUARTERS OPERATIONS.—The Service will  
16 be lead by a Commissioner and Deputy Commissioner who  
17 will focus on immigration enforcement and service policy  
18 and establish a framework to implement national prior-  
19 ities. In addition, headquarters operations will be respon-  
20 sible for policy formulation, strategic planning and the de-  
21 velopment of agency goals, objectives and performance  
22 targets; agency-wide management support and coordina-  
23 tion; budget formulation and execution; public affairs;  
24 Congressional relations; general counsel, and internal  
25 audit.

1           (1) CHIEF FINANCIAL OFFICER.—A Chief Fi-  
2           nancial Officer (CFO) will be established for the ef-  
3           fective and efficient management and accountability  
4           of Service resources. The CFO will coordinate budg-  
5           et formulation, execution and agency-wide financial  
6           management operations. To address the Service’s di-  
7           verse funding sources, the CFO will ensure sound  
8           agency-wide financial management systems and  
9           processes. The CFO will ensure that immigrant serv-  
10          ices and enforcement operations have clearly sepa-  
11          rated and defined resource streams.

12          (2) STRATEGIC PLANNING AND STATISTICAL  
13          MEASURES.—A director of the strategy unit will be  
14          responsible for policy formulation, developing the  
15          long term-strategy for the Service and facilitating  
16          the process of designing programs to execute that  
17          strategy, in consultation with the offices of Immi-  
18          grant Services, Enforcement Operations and Shared  
19          Services. This office will create long-range strategic  
20          and performance measurement plans, in cooperation  
21          with relevant program components. In addition, this  
22          office will be responsible for establishing and  
23          strengthening Federal immigration statistical policy  
24          and measurement operations.

1 (b) The Office of Immigrant Services will be headed  
2 by an Executive Associate Commissioner (EAC), a Senior  
3 Executive who will report directly to the Office of the  
4 Commissioner. The EAC will be responsible for establish-  
5 ing an operational chain of command dedicated solely to  
6 immigration services, focusing comprehensively on provid-  
7 ing quality, timely and efficient services to the immigrant  
8 community and institutions requiring immigrant services.  
9 The EAC will be responsible for all aspects of INS service  
10 and benefit operations and the Office of Immigration  
11 Services will be organized around four functional goals:  
12 (1) ensuring timely processing and courteous service of the  
13 immigrant community through nationally-established cus-  
14 tomer service standards, (2) providing efficient, accurate  
15 benefit processing from remote service centers and service  
16 area operations, (3) ensuring secure documents with un-  
17 compromising integrity, and (4) serving the refugee and  
18 asylee population through humane and timely service and  
19 benefits. Additionally, the EAC is responsible for coordi-  
20 nating, with the Office of Shared Services, the effective  
21 acquisition and utilization of shared support items includ-  
22 ing information technology, financial management, facility  
23 construction, personnel and training. The responsibilities  
24 and duties of the EAC shall include:

1           (1) SERVICE AREA OPERATIONS.—Service area  
2           operations will be located in immigrant communities  
3           around the United States. The EAC will develop and  
4           maintain performance measures to ensure that of-  
5           fices within each area provide efficient and consist-  
6           ent service, while maintaining the integrity of appli-  
7           cation processing. These offices will provide a variety  
8           of services to applicants, including fingerprinting,  
9           photographing, and interviewing applicants. Some  
10          offices will be configured as full-service offices and  
11          others will serve as satellite locations. All will have  
12          a standard appearance with customer-oriented fea-  
13          tures.

14          (2) SERVICE CENTER OPERATIONS.—Service  
15          center operations will include centralized automated  
16          processing and adjudication for applications and pe-  
17          titions that do not require immigrant interviews. In  
18          addition, the service centers will provide front-end  
19          fee receipt, data entry and scheduling for applica-  
20          tions and petitions that require interviews. The EAC  
21          will be responsible for the collection of all manage-  
22          ment reporting information relative to the service  
23          centers, for budget formulation and execution for the  
24          service center budgets, for ensuring the accuracy  
25          and quality control of the adjudication of benefits at

1 the service centers, for all employee hiring and griev-  
2 ance issues at the centers and for monitoring, over-  
3 seeing and executing the mail file and data entry op-  
4 erations. The EAC will also coordinate with the  
5 CFO on financial management.

6 (3) TELEPHONE CENTER OPERATIONS.—The  
7 Service will operate a coordinated telephone assist-  
8 ance system to respond to customer inquiries. The  
9 EAC will be responsible for designing and operating  
10 a telephone system that relies on all assets of the  
11 Service to ensure that customer inquiries are  
12 promptly and accurately addressed. This will include  
13 operating and maintaining the telephone centers,  
14 any contract call-answering facilities, and utilizing  
15 an overflow telephone call assistance capacity de-  
16 signed to access information officers at the service  
17 centers as needed.

18 (c) The Office of Enforcement Operations will be  
19 headed by an Executive Associate Commissioner (EAC),  
20 a Senior Executive who will report directly to the Office  
21 of the Commissioner. The EAC will be responsible for es-  
22 tablishing an operational chain of command dedicated  
23 solely to immigration enforcement, focusing comprehen-  
24 sively on illegal immigration problems at the border and  
25 in the interior of the U.S., and ensuring better linkages



1 of enforcement operations through a single point of ac-  
2 countability for performance. The EAC will be responsible  
3 for all aspects of the Service's enforcement and border  
4 management operations including international enforce-  
5 ment efforts and will be organized around four functional  
6 goals: managing by the Border Patrol of the border be-  
7 tween ports-of-entry; conducting inspections and manag-  
8 ing all port of entry operations; overseeing investigations  
9 and removals; and coordinating and managing detention  
10 and enforcement support. Additionally, the EAC is respon-  
11 sible for coordinating, with the Office of Shared Services,  
12 the effective acquisition and utilization of shared support  
13 items including information technology, financial manage-  
14 ment, facility construction, personnel and training. The  
15 responsibilities and duties of the EAC will include:

16           (1) BORDER MANAGEMENT.—By placing both  
17       Border Patrol and Inspection activities under a sin-  
18       gle EAC, the Service will be able to provide seamless  
19       border enforcement along the Nation's borders, and  
20       will be better able to coordinate operations with  
21       other Federal and governmental agencies along the  
22       border.

23           (A) The Border Patrol will perform its  
24       current border management and control func-  
25       tions of deterring illegal immigration and ap-

1           prehending illegal aliens between ports of entry.

2           In addition, the Border Patrol will continue to  
3           work with Federal, State and local law enforce-  
4           ment agencies to effectively administer laws re-  
5           lated to the interdiction of drug trafficking ac-  
6           tivities.

7                   (B) Port of Entry management is a key  
8           component of border management due to the  
9           interrelationship between activities at and be-  
10          tween land border ports of entry. The EAC will  
11          be operationally responsible for carrying out  
12          these duties in compliance with applicable law  
13          and policy and will be responsible for effectively  
14          monitoring resource utilization and maintaining  
15          accurate performance measures of these activi-  
16          ties.

17                   (2) INTERIOR ENFORCEMENT AND REMOV-  
18          ALS.—The EAC will be responsible for consolidating  
19          investigations, intelligence and deportation functions  
20          into one coordinated multi-disciplinary component to  
21          focus on illegal alien removals and to vigorously  
22          combat immigration document fraud, smuggling and  
23          illegal employment in the workplace. This consoli-  
24          dated approach will ensure swift and proper appre-

1       hension, incarceration and removal of those illegally  
2       residing and working in this country.

3           (3) DETENTION AND ENFORCEMENT SUP-  
4       PORT.—The EAC will be responsible for ensuring  
5       logistical coordination for the incarceration and  
6       transportation of criminal and illegal aliens. The  
7       EAC will be responsible for effectively managing the  
8       Service’s bed space at both Service-owned and con-  
9       tract detention facilities. Additionally, the EAC will  
10      be responsible for effectively acquiring bed space  
11      from State and local entities to ensure the Service  
12      can detain and transport individuals it apprehends.

13      (d) The Office of Shared Services will be headed by  
14      an Executive Associate Commissioner (EAC), a Senior  
15      Executive who will report directly to the Office of the  
16      Commissioner. The EAC will be responsible for establish-  
17      ing an operational chain of command dedicated to meeting  
18      the support requirements for both the enforcement and  
19      service operational components. The EAC will be respon-  
20      sible for the effective provision of shared administrative  
21      and support services to ensure that each side of the agency  
22      has the appropriate administrative and technological tools  
23      to do its jobs in the most effective and cost-efficient way.  
24      The EAC will accomplish this through four functional  
25      goals; establishing and maintaining a records management

1 system that accurately and efficiently documents immigra-  
2 tion status; ensuring information and enforcement tech-  
3 nology enhancements and initiatives are developed and  
4 maintained to operational component specifications; build-  
5 ing and maintaining a superior recruiting, hiring and  
6 training operation to meet Service employment require-  
7 ments; and building and managing a Service physical  
8 plant to adequately support agency housing needs. The  
9 EAC will also coordinate with the CFO on financial man-  
10 agement. The responsibilities and duties of the EAC will  
11 include:

12           (1) AUTOMATION AND TECHNOLOGY.—The  
13       EAC will be responsible for ensuring that the Serv-  
14       ice establishes and maintains state-of-the-art infor-  
15       mation resources capability to carry out agency en-  
16       forcement and service functions. The EAC will be  
17       responsible for deploying and monitoring technology  
18       and ensuring that the Service’s workforce operates  
19       as effectively as possible with these tools. The EAC  
20       will also establish and promulgate agency-wide policy  
21       relative to the acquisition and deployment of tech-  
22       nology capabilities in coordinating with the oper-  
23       ational components of the Service.

24           (2) CENTRALIZED RECORDS MANAGEMENT.—  
25       The EAC will be responsible for maintaining a cen-

1       tralized repository for all Service records and will be  
2       responsible for establishing a greater level of data  
3       integrity in existing electronic records and managing  
4       the transition to an electronic records environment.

5           (3) PERSONNEL AND TRAINING.—The EAC will  
6       be responsible for tracking the hiring of all cat-  
7       egories of Service personnel and ensuring that all  
8       employees receive proper training in a timely man-  
9       ner. Specialized training courses and a full spectrum  
10      of basic, advanced, and continuing education will be  
11      established to ensure a professional workforce.

12          (4) ADMINISTRATIVE SUPPORT.—The EAC will  
13      be responsible, in coordination with the operational  
14      components of the Service, for planning, construct-  
15      ing and renovating all required Service facilities and  
16      equipment, including Border Patrol stations, deten-  
17      tion facilities, Immigrant Services offices and gen-  
18      eral support office space. The EAC will also be re-  
19      sponsible for logistics; procurement; and environ-  
20      mental, occupational and health activities of the  
21      Service.

22   **SEC. 102. SAVINGS PROVISIONS.**

23          (a) LEGAL DOCUMENTS.—All orders, determinations,  
24      rules, regulations, permits, grants, loans, contracts, agree-  
25      ments, certificates, licenses, and privileges—

1           (1) that have been issued, made, granted, or al-  
2           lowed to become effective by the President, the At-  
3           torney General, the Commissioner of the INS, or  
4           any other Government official, or by a court of com-  
5           petent jurisdiction, in the performance of any func-  
6           tion that is transferred; and

7           (2) that are in effect on the effective date of  
8           such transfer (or become effective after such date  
9           pursuant to their terms as in effect on such effective  
10          date); shall continue in effect according to their  
11          terms until modified, terminated, superseded, set  
12          aside, or revoked in accordance with law by the  
13          President, any other authorization official, a court of  
14          competent jurisdiction, or operation of law.

15          (b) PROCEEDINGS.—This Act shall not affect any  
16          proceedings including proceedings before the Executive  
17          Office for Immigration Review and any application for any  
18          benefits, service, license, permit, certificate, or financial  
19          assistance in pending on the date of the enactment of this  
20          Act before an office whose functions are transferred by  
21          this Act, but such proceedings and applications shall be  
22          continued. Orders shall be issued in such proceedings, ap-  
23          peals shall be taken therefrom, and payments shall be  
24          made pursuant to such orders, as if this Act had not been  
25          enacted, and orders issued in any such proceeding shall

1 continue in effect until modified, terminated, superseded,  
2 or revoked by a duly authorized official, by a court of com-  
3 petent jurisdiction, or by operation of law. Nothing in this  
4 subsection shall be considered to prohibit the discontinu-  
5 ance or modification of any such proceeding under the  
6 same terms and conditions and to the same extent that  
7 such proceeding could have been discontinued or modified  
8 if this Act had not been enacted.

9 (c) SUITS.—This Act shall not affect suits com-  
10 menced before the date of the enactment of this Act, and  
11 in all such suits, proceedings shall be had, appeals taken,  
12 and judgments rendered in the same manner and with the  
13 same effect as if this Act had not been enacted.

14 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
15 or other proceeding commenced by or against the Depart-  
16 ment of Justice or the Immigration and Naturalization  
17 Service, or by or against any individual in the official ca-  
18 pacity of such individual as an officer or employee in con-  
19 nection with a function transferred by the Act, shall abate  
20 by reason of the enactment of this Act.

21 (e) CONTINUANCE OF SUITS.—If any Government of-  
22 ficer in the official capacity of such officer is party to a  
23 suit with respect to a function of the officer, and under  
24 this Act such function is transferred to any other officer  
25 or office, then such suit shall be continued with the other

1 officer or the head of such other office, as applicable, sub-  
2 stituted or added as a party.

3 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-  
4 VIEW.—Except as otherwise provided by this Act, any  
5 statutory requirements relating to notice, hearings, action  
6 upon the record, or administrative or judicial review that  
7 apply to any function transferred by this Act shall apply  
8 to the exercise of such function by the head of the office,  
9 and other officers of the office, to which such function is  
10 transferred by this Act.

11 (g) DEPARTMENT OF STATE.—Nothing in this Act  
12 shall be construed to preclude or limit in any way the pow-  
13 ers, authorities, or duties of special agents of the Depart-  
14 ment of State and the Foreign Service under section 2709  
15 of title 22, United States Code, or of the Secretary of  
16 State under section 4801, et seq. of title 22, United States  
17 Code, to investigate illegal passport or visa issuance or  
18 use.

19 **SEC. 103. COMMISSIONER COMPENSATION.**

20 Effective as of the day following the date on which  
21 the present incumbent in the office of the Commissioner  
22 ceases to serve as such, the Commissioner of the Immigra-  
23 tion and Naturalization Service shall receive compensation  
24 at the rate prescribed for level III of the Federal Executive



1 Salary Schedule (section 5314 of title 5, United States  
2 Code).

## 3 **TITLE II—CONFORMING** 4 **AMENDMENTS**

### 5 **SEC. 201. CONFORMING AMENDMENTS.**

6 (a) Section 103(e)(2) of the INA, 8 U.S.C. section  
7 1103(e)(2), is amended by striking “district office of the  
8 Service” and inserting “designated office of the Immigra-  
9 tion and Naturalization Service”.

10 (b) Section 242(b)(3)(A) of the INA, 8 U.S.C. section  
11 1252(b)(3)(A), is amended by striking “Service district”  
12 and inserting “designated office of the Immigration and  
13 Naturalization Service”.

14 (c) Section 316 of the INA, 8 U.S.C. section 1427,  
15 is amended—

16 (1) in section (a) by striking “district of the  
17 Service” and inserting “area serviced by the des-  
18 ignated office of the Immigration and Naturalization  
19 Service”; and

20 (2) in section (f)(1) by striking “district of the  
21 Service” and inserting “area serviced by the des-  
22 ignated office of the Immigration and Naturalization  
23 Service”.

24 (d) Section 319 of the INA, 8 U.S.C. section 1430,  
25 is amended—

1           (1) in section (a) by striking “district of the  
2       Service” and inserting “area serviced by the des-  
3       ignated office of the Immigration and Naturalization  
4       Service”;

5           (2) in section (b)(3) by striking “district of the  
6       Service” and inserting “area serviced by the des-  
7       ignated office of the Immigration and Naturalization  
8       Service”;

9           (3) in section (c)(5) by striking “district of the  
10      Service” and inserting “area serviced by the des-  
11      ignated office of the Immigration and Naturalization  
12      Service”; and

13          (4) in section (d) by striking “district of the  
14      Service” and inserting “area serviced by the des-  
15      ignated office of the Immigration and Naturalization  
16      Service”.

17          (e) Section 324 of the INA, 8 U.S.C. section  
18      1435(a)(1), is amended by striking “district of the Serv-  
19      ice” and inserting “area serviced by the designated office  
20      of the Immigration and Naturalization Service”.

21          (f) Section 328 of the INA, 8 U.S.C. section 1439,  
22      is amended—

23           (1) in section (a) by striking “district of the  
24      Service” and inserting “area serviced by the des-

1       ignated office of the Immigration and Naturalization  
2       Service”;

3           (2) in section (b)(1) by striking “district of the  
4       Service” and inserting “area serviced by the des-  
5       ignated office of the Immigration and Naturalization  
6       Service”; and

7           (3) in section (c) by striking “district of the  
8       Service” and inserting “area serviced by the des-  
9       ignated office of the Immigration and Naturalization  
10      Service”.

11      (g) Section 329(b)(2) of the INA, 8 U.S.C. section  
12      1440(b)(2), is amended by striking “district of the Serv-  
13      ice” and inserting “area serviced by the designated office  
14      of the Immigration and Naturalization Service”.

15      (h) Section 335(f) of the INA, 8 U.S.C. section  
16      1446(f), is amended by striking “district of the Service”  
17      each time the phrase appears and inserting “area serviced  
18      by the designated office of the Immigration and Natu-  
19      ralization Service”.

20      (i) Section 338 of the INA, 8 U.S.C. section 1449,  
21      is amended by striking “district office of the Service” and  
22      inserting “designated office of the Immigration and Natu-  
23      ralization Service”.

24      (j) Section 339(b) of the INA, 8 U.S.C. section  
25      1450(b), is amended by striking “district office of the

1 Service” and inserting “designated office of the Immigra-  
2 tion and Naturalization Service”.

3 (k) Section 404 of the INA, 8 U.S.C. section 1101,  
4 note, is amended—

5 (1) in section (b)(2)(A)(i) by striking “a district  
6 director of the Service” and inserting “a designated  
7 Immigration and Naturalization Service officer”;  
8 and

9 (2) in (b)(2)(A)(iii) by striking “in a district”  
10 and inserting “in a designated office of the Immi-  
11 gration and Naturalization Service”.

○